

CASREF

**U.S. District Court Northern District of Indiana [LIVE]
USDC Northern Indiana (Fort Wayne)
CIVIL DOCKET FOR CASE #: 1:08-cv-00239-RLM-RBC
Internal Use Only**

Lincoln National Life Insurance Company v. Sun Life
Assurance Company of Canada (US) et al
Assigned to: Judge Robert L Miller, Jr
Referred to: Magistrate Judge Roger B Cosbey
Cases: 1:04-cv-00396-JVB-RBC
1:07-cv-00265-JVB-RBC
Cause: 35:271 Patent Infringement

Date Filed: 10/15/2008
Jury Demand: Plaintiff
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

**Lincoln National Life Insurance
Company**

Pat. # 6,611,815
7,089,201
7,376,608

represented by **D Randall Brown**
Barnes & Thornburg LLP - FW/IN
600 One Summit Square
Fort Wayne, IN 46802-3119
260-425-4674
Fax: 260-424-8316
Email: rbrown@btlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Gary C Furst
Barnes & Thornburg LLP - FW/IN
600 One Summit Square
Fort Wayne, IN 46802-3119
260-425-4669
Fax: 260-424-8316
Email: gfurst@btlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

**Sun Life Assurance Company of
Canada (US)**

Defendant

**Sun Life Insurance and Annuity
Company of New York**

Date Filed	#	Docket Text
10/15/2008	<u>1</u>	COMPLAINT with Jury Demand against Sun Life Assurance Company of Canada (US), Sun Life Insurance and Annuity Company of New York (Filing Fee: \$350.00; Receipt #156494) filed by Lincoln National Life Insurance Company. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Civil Cover Sheet).(cer) (Entered: 10/15/2008)
10/15/2008	<u>2</u>	NOTICE of Appearance by D Randall Brown on behalf of Lincoln National Life Insurance Company. (cer) (Entered: 10/15/2008)
10/15/2008	<u>3</u>	NOTICE of Appearance by Gary C Furst on behalf of Lincoln National Life Insurance Company. (cer) (Entered: 10/15/2008)
10/15/2008	<u>4</u>	Corporate Disclosure Statement by Lincoln National Life Insurance Company identifying Corporate Parent Lincoln National Corporation for Lincoln National Life Insurance Company. (cer) (Entered: 10/15/2008)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

LINCOLN NATIONAL LIFE
INSURANCE COMPANY,

Plaintiff,

vs.

SUN LIFE ASSURANCE COMPANY OF
CANADA (U.S.), and SUN LIFE
INSURANCE AND ANNUITY
COMPANY OF NEW YORK,

Defendants.

CIVIL ACTION NO: _____

JURY TRIAL DEMANDED

1:08CV0239 RM

2008 OCT 15 PM 3:36
STEPHEN A. LUTHE, CLERK
U.S. DISTRICT COURT
FOR THE DISTRICT
OF INDIANA

FILED

COMPLAINT FOR PATENT INFRINGEMENT

The Plaintiff, Lincoln National Life Insurance Company by and through its attorneys, for its Complaint against the Defendants, Sun Life Assurance Company of Canada (U.S.) and Sun Life Insurance and Annuity Company of New York, (collectively, "Sun Life"), alleges and states as follows.

PARTIES, JURISDICTION, AND VENUE

1. This is an action for patent infringement arising under Title 35 of the United States Code. This Court has jurisdiction over the subject matter of this controversy under 28 U.S.C. §§ 1331 and 1338(A).

2. Plaintiff, Lincoln National Life Insurance Company ("Lincoln"), is a corporation organized and existing under the laws of the State of Indiana. Lincoln has a principal place of business located in Fort Wayne, Indiana.

3. Sun Life Assurance Company of Canada (U.S.) is a wholly-owned indirect subsidiary of Sun Life Assurance Company of Canada and is a stock life insurance company incorporated under the laws of Delaware. Sun Life Assurance Company of Canada (U.S.) has a principal place of business in Wellesley Hills, Massachusetts. Sun Life Assurance Company of Canada (U.S.) is licensed to do business in 48 states, including the state of Indiana.

4. Sun Life Insurance and Annuity Company of New York is a wholly-owned insurance subsidiary company of Sun Life Assurance Company of Canada (U.S.). Sun Life Insurance and Annuity Company of New York is incorporated under the laws of the State of New York and has a principal place of business in New York City, New York.

5. Venue lies in this judicial district by virtue of 28 U.S.C. §§ 1391 and 1400(b).

COUNT 1: PATENT INFRINGEMENT (U.S. PATENT NO. 6,611,815)

6. On August 26, 2003, United States Patent No. 6,611,815 (the "'815 Patent'"), entitled "Method and System for Providing Account Values in an Annuity with Life Contingencies," was duly and legally issued to Lincoln. On July 27, 2004, the United States Patent and Trademark Office issued a Certificate of Correction, correcting Column 13, lines 40-55 of the '815 Patent. A copy of the '815 Patent and the Certificate of Correction is attached as Exhibit 1.

7. The '815 patent relates to a data processing method for administering an annuity product having a guarantee of lifetime payments.

8. Since August 26, 2003, Lincoln has been and is still the owner by assignment of the entire right, title, and interest in and to the '815 Patent.

9. Sun Life has been, and is now, infringing at least claims 1, 21, 28-30 and 32-33 of the '815 Patent by selling, offering to sell, and/or administering annuity products sold within this

judicial district and elsewhere that have guaranteed minimum withdrawal benefits ("GMWBs"), including (but not limited to) Secured Returns for Life PlusSM, The Retirement Income EscalatorSM, and The Income ON DemandSM Benefit.

10. As a consequence of the acts of infringement by Sun Life, Lincoln has suffered irreparable damage to its property in an amount not yet determined, and Lincoln will continue to be damaged by such acts in the future.

11. Through this Complaint, Sun Life has been notified of its infringing conduct.

COUNT II: PATENT INFRINGEMENT (U.S. PATENT NO. 7,089,201)

12. On August 8, 2006, United States Patent No. 7,089,201 (the "'201 Patent"), entitled "Method and Apparatus for Providing Retirement Income Benefits" was duly and legally issued to Lincoln. The '201 Patent relates to a computerized method for administering annuity products. A copy of the '201 Patent is attached as Exhibit 2.

13. Since August 8, 2006, Lincoln has been and is still the owner by assignment of the entire right, title, and interest in and to the '201 Patent.

14. Sun Life has been, and is now, infringing at least claims 35-39 and 42-43 of the '201 Patent by selling, offering for sale, and/or administering annuity products sold within this judicial district and elsewhere that have GMWBs, including (but not limited to) Secured Returns for Life PlusSM, The Retirement Income EscalatorSM, and The Income ON DemandSM Benefit.

15. As a consequence of the acts of infringement by Sun Life, Lincoln has suffered irreparable damage to its property in an amount not yet determined, and Lincoln will continue to be damaged by such acts in the future.

16. Through this Complaint, Sun Life has been notified of its infringing conduct.

COUNT III: PATENT INFRINGEMENT (U.S. PATENT NO. 7,376,608)

17. On May 20, 2008, the U.S. Patent No. 7,376,608 (the "'608 Patent") entitled "Method and System for Providing Retirement Income Benefits" was duly and legally issued to Lincoln. A copy of the '608 Patent is attached as Exhibit 3.

18. Since May 20, 2008, Lincoln has been and is still the owner by assignment of the entire right, title, and interest in and to the '608 Patent.

19. Sun Life has been, and is now, infringing at least claims 1-2, 5, 7-10, and 14-19 of the '608 Patent by administering annuity products sold within this judicial district and elsewhere that have GMWBs, including (but not limited to) Secured Returns for Life PlusSM, The Retirement Income EscalatorSM, and The Income ON DemandSM Benefit.

20. As a consequence of the acts of infringement by Sun Life, Lincoln has suffered irreparable damage to its property in an amount not yet determined, and Lincoln will continue to be damaged by such acts in the future.

21. Through this Complaint, Sun Life has been notified of its infringing conduct.

WHEREFORE, Lincoln prays for:

- (a) A judgment declaring the '815 Patent, the '201 Patent, and the '608 Patent infringed by Sun Life;
- (b) An award of damages adequate to compensate Lincoln for Sun Life's infringement of the '815 Patent, the '201 Patent, and the '608 Patent, but in no event less than a reasonable royalty, together with interest and costs as fixed by the Court;
- (c) A declaration that this case is exceptional under 35 U.S.C. § 285 and an award of reasonable attorneys' fees under 35 U.S.C. § 285;

- (d) A preliminary and permanent injunction enjoining Sun Life from continuing their infringing activities; and
- (e) An award of all other relief appropriate in the premises.

RESERVATION OF RIGHTS

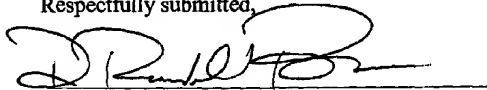
Lincoln hereby reserves the right to name additional Sun Life entities to this lawsuit for patent infringement as investigation and discovery continue.

JURY DEMAND

Lincoln, by counsel, and under Fed. R. Civ. P. 38, demands a trial by jury of all issues triable of right by jury.

Dated: October 15, 2008

Respectfully submitted,



D. Randall Brown (#15127-49)
(randy.brown@btlaw.com)
Gary C. Furst (#19349-64)
(gary.furst@btlaw.com.)
Carrie Marie Raver (#25257-49)
(carrie.raver@btlaw.com)
BARNES & THORNBURG LLP
600 One Summit Square
Fort Wayne, IN 46802
Tel.: (260) 423-9440
Fax.: (260) 424-8316

Hongsun Yoon (#23804-53)
(hongsun.yoon@btlaw.com)
BARNES & THORNBURG LLP
11 South Meridian Street
Indianapolis, Indiana 46204
Tel: (317) 236-1313
Fax: (317) 231-7433

Attorneys for Plaintiff,
Lincoln National Life Insurance Company